

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of)
4)
5 MUR 7212) DISMISSAL AND
6 Hoosiers for Jim Pfaff) CASE CLOSURE UNDER THE
7 and James Pfaff as treasurer) ENFORCEMENT PRIORITY
8) SYSTEM
9

10 **GENERAL COUNSEL'S REPORT**

11 Under the Enforcement Priority System, the Commission uses formal scoring criteria as a
12 basis to allocate its resources and decide which matters to pursue. These criteria include, without
13 limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking into
14 account both the type of activity and the amount in violation; (2) the apparent impact the alleged
15 violation may have had on the electoral process; (3) the complexity of the legal issues raised in the
16 matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as
17 amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing
18 relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial
19 discretion to dismiss cases under certain circumstances. The Office of General Counsel has scored
20 MUR 7212 as a low-rated matter and has determined that it should not be referred to the Alternative
21 Dispute Resolution Office.¹

22 The Complaint alleges that Hoosiers for Jim Pfaff and James Pfaff in his official capacity as
23 treasurer (the "Committee")² violated the Act and Commission regulations by failing to disclose

¹ The EPS rating information is as follows:
filed in the matter.

Complaint filed: Feb. 2, 2017. No response was

² On July 14, 2016, the Committee amended its FEC Form 1, Statement of Organization, to name James Pfaff as
Committee treasurer.

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1 debts it owed to the Complainant for wages and expenses, or to disclose the debts as disputed.³
2 James Pfaff was a candidate for Congress from Indiana's ninth district.⁴ According to documents
3 attached to the Complaint, in early January 2016, Pfaff hired Complainant Paul Sapperstein as the
4 Committee's Deputy Campaign Manager with a monthly salary of \$3,500 and a starting date of
5 January 18, 2016.⁵ A month later, Complainant presented Pfaff with a report detailing \$639.68 in
6 expenses incurred both as a volunteer and a paid employee of the Committee, and requested
7 reimbursement, as well as his first month's salary.⁶ Sapperstein says that his requests were ignored,
8 so he left his position with the Committee on February 19, 2016.⁷ Sapperstein states that further
9 requests for payment and reimbursement were also ignored.⁸ Neither Pfaff nor his Committee filed a
10 response.

11 Committee treasurers are required to file reports of receipts and disbursements in accordance
12 with the provisions of the Act and Commission regulations.⁹ The disclosure reports must include the
13 amount and nature of outstanding debts and obligations owed by or to the political committee.¹⁰

³ Compl. at 1-2 (Feb. 2, 2017).

⁴ *Id.* at 1. On August 20, 2015, Hoosiers for Jim Pfaff filed its FEC Form 1, Statement of Organization, registering as the authorized campaign Committee for Pfaff. FEC Form 1, Statement of Organization (Aug. 20, 2015) at <http://docquery.fec.gov/pdf/109/201508209000876109/201508209000876109.pdf>. Available information indicates that Pfaff withdrew as a federal candidate as early as Feb. 1, 2016, and ran for state office. Pfaff did not win that election. See Indiana Secretary of State, Election Division, at http://www.in.gov/sos/elections/files/2016_May_3_Primary_Candidate_Abbreviated_List_Feb_22__pdf. See also https://ballotpedia.org/Jim_Pfaff and <http://www.indystar.com/story/news/politics/2016/02/05/indianas-presidential-ballot-crowded-but-how-long/79892704>.

⁵ Compl. Attach. 1 (Offer Letter).

⁶ Compl. at 1-2; *see also* Compl. Attach. 3-4.

⁷ *Id.*

⁸ *Id.*

⁹ 52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.1(a).

¹⁰ 52 U.S.C. § 30104(b)(8); 11 C.F.R. § 104.3(d).

1 Further, the Commission's regulations specify that a debt or obligation exceeding \$500 must be
2 disclosed in the report that covers the date on which the debt or obligation is incurred.¹¹ A
3 Committee shall also report a disputed debt¹² if the creditor has provided something of value to the
4 political committee.¹³

5 Complainant presented information indicating debts owed to him, but a review of the
6 Committee's disclosure reports shows no disbursements to the Complainant at any point during the
7 Committee's existence, and the Committee reports no outstanding debts or disputed debts owed to
8 the Complainant. It also appears that Pfaff is not a candidate for Federal office. Although the
9 Committee continues to file disclosure reports with the Commission, there has been no
10 recent financial activity and the Committee appears to have no cash on hand.¹⁴ Therefore, given the
11 status of this Committee and the *de minimis* nature of this reporting violation, and in furtherance of
12 the Commission's priorities, relative to other matters pending on the Enforcement docket, the Office
13 of General Counsel recommends that the Commission exercise its prosecutorial discretion to dismiss
14 the allegation that Hoosiers for Jim Pfaff and James Pfaff in his official capacity as treasurer violated

¹¹ 11 C.F.R. § 104.3(d). Debts and obligations shall be continuously reported until extinguished, and shall also include a statement explaining the circumstances under which each debt and obligation was incurred or extinguished. See 11 C.F.R. § 104.11(b).

¹² A debt is disputed where there is an actual or potential debt or obligation owed by a political committee, including an obligation arising from a written contract, promise or agreement to make an expenditure, where there is a bona fide disagreement between the creditor and the political committee as to the existence or amount of the obligation owed by the political committee. 11 C.F.R. § 116.1(d).

¹³ 11 C.F.R. § 116.10(a). Until the dispute is resolved, the committee shall disclose on the appropriate reports any amounts paid to the creditor, any amount the political committee admits it owes, and the amount the creditor claims is owed. *Id.*

¹⁴ The Committee began reporting a negative cash on hand balance in its 2016 July Quarterly report. The Commission's Reports Analysis Division ("RAD") sent a Request for Additional Information to the Committee regarding the negative balance, and on October 19, 2016, the Committee amended its report to reflect no cash on hand. The Committee again disclosed a negative cash on hand balance in its 2016 Year End report, 2017 April Quarterly report, and 2017 July Quarterly report. According to RAD, the cash on hand issue in this matter does not meet any referral threshold to either the Office of General Counsel or Alternative Dispute Resolution Office. Further, RAD indicates that one year after the last report of activity, which was disclosed in its 2016 Year-end report, the Committee will be eligible for administrative termination.

HOOSIERS FOR JIM PFAFF

1 52 U.S.C. § 30104(b) and 11 C.F.R. § 116.10(a).¹⁵ We also recommend that the Commission remind
2 the Committee to amend its reports to disclose debts owed to the Complainant for salary and
3 expenses, or to declare these debts as disputed.

4 **RECOMMENDATIONS**

- 5 1. Dismiss the allegation that Hoosiers for Jim Pfaff and James Pfaff in his official capacity
6 as treasurer violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 116.10(a);
7
8 2. Remind Hoosiers for Jim Pfaff and James Pfaff in his official capacity as treasurer to
9 properly disclose debts owed to the complainant;
10
11 3. Approve the Factual and Legal Analysis;
12
13 4. Approve the appropriate letters; and
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15 5. Close the file as to all Respondents.
16

17 Lisa J. Stevenson
18 Acting General Counsel

19 Kathleen M. Guith
20 Associate General Counsel

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23
24
25 7.20.17
26 Date

27 BY: Stephen Gura
28 Stephen Gura
29 Deputy Associate General Counsel

30 Jeff S. Jordan
31 Jeff S. Jordan
32 Assistant General Counsel

33
34 Wanda D. Brown
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36 Attorney

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39 Attachments: Factual and Legal Analysis
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¹⁵ *Heckler v. Chaney*, 470 U.S. 821 (1985).

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: James Pfaff MUR 7212
Hoosiers for Jim Pfaff

I. INTRODUCTION

This matter was generated by a Complaint alleging that Hoosiers for Jim Pfaff and James Pfaff in his official capacity as treasurer (the "Committee") violated the Federal Election Campaign Act of 1971, as amended (the "Act") by failing to disclose debts in disclosure reports filed with the Federal Election Commission (the "Commission").¹

II. FACTUAL AND LEGAL ANALYSIS

James Pfaff was a candidate for Congress from Indiana's ninth district.² According to documents attached to the Complaint, in early January 2016, Pfaff hired Complainant Paul Sapperstein as the Committee's Deputy Campaign Manager with a monthly salary of \$3,500 and a starting date of January 18, 2016.³ A month later, Complainant presented Pfaff with a report detailing \$639.68 in expenses incurred both as a volunteer and a paid employee of the Committee, and requested reimbursement, as well as his first month's salary.⁴ Sapperstein says

¹ Compl. at 1-2 (Feb. 2, 2017).

² *Id.* at 1. On August 20, 2015, Hoosiers for Jim Pfaff filed its FEC Form 1, Statement of Organization, registering as the authorized campaign Committee for Pfaff. FEC Form 1, Statement of Organization (Aug. 20, 2015) at <http://docquery.fec.gov/pdf/109/201508209000876109/201508209000876109.pdf>. Available information indicates that Pfaff withdrew as a federal candidate as early as Feb. 1, 2016, and ran for state office. Pfaff did not win that election. See Indiana Secretary of State, Election Division, at http://www.in.gov/sos/elections/files/2016_May_3_Primary_Candidate_Abbreviated_List_Feb_22__pdf. See also https://ballotpedia.org/Jim_Pfaff and <http://www.indystar.com/story/news/politics/2016/02/05/indianas-presidential-ballot-crowded-but-how-long/79892704>.

³ Compl. Attach. 1 (Offer Letter).

⁴ Compl. at 1-2; see also Compl. Attach. 3-4.

1 that his requests were ignored, so he left his position with the Committee on February 19, 2016.⁵
2 Sapperstein states that further requests for payment and reimbursement were also ignored.⁶
3 Neither Pfaff nor his Committee filed a response.

4 Committee treasurers are required to file reports of receipts and disbursements in
5 accordance with the provisions of the Act and Commission regulations.⁷ The disclosure reports
6 must include the amount and nature of outstanding debts and obligations owed by or to the
7 political committee.⁸ Further, the Commission's regulations specify that a debt or obligation
8 exceeding \$500 must be disclosed in the report that covers the date on which the debt or
9 obligation is incurred.⁹ A Committee shall also report a disputed debt¹⁰ if the creditor has
10 provided something of value to the political committee.¹¹

11 Complainant presented information indicating debts owed to him, but a review of the
12 Committee's disclosure reports shows no disbursements to the Complainant at any point during
13 the Committee's existence, and the Committee reports no outstanding debts or disputed debts
14 owed to the Complainant. It also appears that Pfaff is not a candidate for Federal office.

⁵ *Id.*

⁶ *Id.*

⁷ 52 U.S.C. § 30104(a)(1), 11 C.F.R. § 104.1(a).

⁸ 52 U.S.C. § 30104(b)(8); 11 C.F.R. § 104.3(d).

⁹ 11 C.F.R. § 104.3(d). Debts and obligations shall be continuously reported until extinguished, and shall also include a statement explaining the circumstances under which each debt and obligation was incurred or extinguished. *See* 11 C.F.R. § 104.11(b).

¹⁰ A debt is disputed where there is an actual or potential debt or obligation owed by a political committee, including an obligation arising from a written contract, promise or agreement to make an expenditure, where there is a bona fide disagreement between the creditor and the political committee as to the existence or amount of the obligation owed by the political committee. 11 C.F.R. § 116.1(d).

¹¹ 11 C.F.R. § 116.10(a). Until the dispute is resolved, the committee shall disclose on the appropriate reports any amounts paid to the creditor, any amount the political committee admits it owes, and the amount the creditor claims is owed. *Id.*

1 Although the Committee continues to file disclosure reports with the Commission, there has been
2 no recent financial activity and the Committee appears to have no cash on hand.¹² Therefore,
3 given the status of this Committee and the *de minimis* nature of this reporting violation, and in
4 furtherance of the Commission's priorities, relative to other matters pending on the Enforcement
5 docket, the Commission exercised its prosecutorial discretion to dismiss the allegation that
6 Hoosiers for Jim Pfaff and James Pfaff in his official capacity as treasurer violated 52 U.S.C.
7 § 30104(b) and 11 C.F.R. § 116.10(a).¹³ The Commission also reminds the Committee to amend
8 its reports to disclose debts owed to the Complainant for salary and expenses, or to declare these
9 debts as disputed.

¹² The Committee began reporting a negative cash on hand balance in its 2016 July Quarterly report. The Commission's Reports Analysis Division ("RAD") sent a Request for Additional Information to the Committee regarding the negative balance, and on October 19, 2016, the Committee amended its report to reflect no cash on hand. The Committee again disclosed a negative cash on hand balance in its 2016 Year End report, 2017 April Quarterly report, and 2017 July Quarterly report.

¹³ *Heckler v. Chaney*, 470 U.S. 821 (1985).